

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. TEODORO CARCEDO Y CARREDO, DEFENDANT-APPELLANT.

G.R. No. L-48085. June 26, 1991

Ponente: BIDIN, J.

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BIDIN, J.:

This is an appeal from the January 12, 1978 Decision of the then Circuit Criminal Court, 14th Judicial District, Cebu-Bohol, Cebu City, presided by Hon. Romeo M. Escareal, finding the accused Milagros Camahalan y Baylosis and Teodoro Carcedo y Carredo, guilty beyond reasonable doubt of the crime of parricide and murder, respectively, and sentencing each of them to suffer the penalty of reclusion perpetua, with the accessory penalties imposed by law, to indemnify jointly and severally, the heirs of the deceased Pedro Camahalan in the amount of P12,000.00, plus P8,000.00 in moral and exemplary damages, and to pay the cost proportionately.

Milagros Camahalan y Baylosis, Teodoro Carcedo y Carredo and Elizardo Carcedo were charged in the Circuit Criminal Court, 14th Judicial District, Cebu City, with Parricide and Murder in an information which reads:

“The State accuses Milagros Camahalan for parricide, Teodoro Carcedo and Elisardo Carcedo for murder, committed as follows:

“That on or about May 2, 1977, in the Municipality of Malabuyoc, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the accused Milagros Camahalan, a lawfully wedded spouse of one Pedro Camahalan, conspiring and confederating together with accused Teodoro Carcedo and Elizardo Carcedo, the latter being still at-large and shall be prosecuted separately once arrested, with intent to kill, evident premeditation, treachery, nocturnity, superior strength, consideration of a reward and craft, lured their victim on an uninhabited place to better facilitate and accomplish their criminal plan and design, and did then and there use personal violence upon the person of said Pedro Camahalan by striking the latter from behind with an empty bottle, hitting him on the nape, causing him to fall down, and then and there throttled him and repeatedly struck his head with stones thereby inflicting upon him fatal injuries which caused his death as a consequence.

“CONTRARY TO LAW.”

Upon arraignment, the accused, assisted by their respective counsel de oficio, separately entered a plea of not guilty to the crime charged against them.

The factual background of this case as found by the trial court is as follows:

“The accused Milagros Camahalan y Baylosis and the deceased victim Pedro Camahalan were legally married by a Roman Catholic priest in Alegria, Cebu, their marriage being entered in the local civil registry on December 10, 1970 (Exhibit “F”). They have a son and the three of them stayed with Benita Baylosis, a 65-year-old woman, who had adopted Milagros, in a house situated in sitio Abungon, barrio Lomboc, Malabuyoc, Cebu.

“On May 21, 1977, at around 4:00 o’clock in the afternoon, Milagros and Pedro asked permission from Benita

and left for the seashore to go fishing. The next day, Milagros returned alone at around noontime, telling Benita that Pedro had gone to Santander, Cebu, to borrow money and will return on Tuesday. Later that afternoon, some small children came and told Benita that Pedro was already dead and his body had been brought to town by the police. As Benita was then sick, she sent Milagros to verify but the latter never returned. Benita learned afterwards that Milagros had been jailed. After some time, Benita executed a written statement before the police (Exhibit "A").

"In that evening of May 21, 1977, Alma Licaros, a 12-year-old student residing at barrio Montanesa, Malabuyoc, Cebu, had gone to the novena prayers for the month of May. After the novena, Alma went to the store of one Inting Lim to return the lighted Petromax lamp which was used in the chapel. At the store, she saw accused Milagros Camahalan, her husband Pedro Camahalan, and one Elisardo Carcedo, seated inside and afterwards leave at around 10:00 o'clock p.m. The next day, Alma learned that Pedro had died and she saw his dead body in the beach, with the nearest house some 50-60 meters away, and also a little distance from the store of Inting Lim. After she told her mother about seeing Pedro, Milagros and Elisardo the previous evening, she was investigated by the police the day after the body was found.

"Simplicio Daplas, a 26-year old farmer residing also in barrio Montanesa, Malabuyoc, Cebu, went to the sea on May 20, 1977 and returned to his house at around 9:00 o'clock a.m. He saw a woman near his house, whom he had not met before and who later turned out to be the accused Milagros Camahalan. He asked his wife who the woman was and also asked the woman what her purpose was in being there.

"The woman replied that she was looking for Ely or Elisardo Carcedo. Simplicio asked her why and she said she had something to tell to Ely which she could not tell anybody. He pressed her to state her purpose and she finally revealed that she wanted Ely to kill her husband because she could not bear his maltreatment anymore and that he had even pushed her adopted mother over a cliff. Simplicio advised her not to go ahead with her plans but separate from her husband since if she had him killed, it would be a sin against God.

"However, Simplicio pointed to the woman where Ely was living, which was across the creek from his own house some 60-70 meters away. Ely was staying there with his friend Manuel, while Ely's younger brother Teodoro was living in his own house at about the same distance from Simplicio's house.

"Simplicio learned about the incident where Pedro Camahalan had been killed the next day. When he went fishing, he met a policeman at the corner and told him about his encounter the previous day with the woman. The police had him execute a statement on May 23, 1977 (Exhibits "1-MC" and "1-a-MC").

"Sgt. Paulino Manlunas, officer-in-charge of the Malabuyoc, Cebu police station, received a report of an unusual incident in sitio Tapi, barrio Montanesa, at 8:00 o'clock a.m. of May 22, 1977, from one Elpidio Detuya, a barrio resident. Together with five other policemen, he went to the crime scene and saw a dead body which was identified later to be that of one Pedro Camahalan by a neighbor of the latter.

"Sgt. Manlunas saw injuries on the top and back of the head, on the nape and on the throat of the victim. He also saw an empty bottle of Tru-Orange and pieces of bloody stones. There were streaks of blood from the body to the seashore and the scene was in a secluded place at a very low portion of the beach, with the nearest house belonging to Orencio Chu some 80 meters away, but obstructed by trees. Sgt. Manlunas brought the bottle (Exhibit "H") and the two (2) pieces of bloody stones (Exhibits "I" and "I-1") with him and kept it in his office steel cabinet before turning it over to the municipal court.

"He requested the barrio captain to have the dead body carried and placed in the barrio chapel where Dr. Danilo Cabigon conducted an autopsy, after which contributions were asked from the barrio people for expenses of burial as the victim had no relatives.

"In the evening of May 22, 1977, at around 11:00 o'clock, Milagros Camahalan arrived in the Malabuyoc municipal building. Because she admitted her participation in the killing, she was placed in jail. The police

looked for witnesses and found Simplicio Daplas and Alma Licaros, whose statements were taken (Exhibits “B” and “C”). Later, the statement of Benita Baylosis was taken also.

Milagros Camahalan gave a statement (Exhibit “D”) after she was informed of her constitutional rights and she submitted to an investigation as she was telling only the truth, after which she signed it and subscribed to it before the municipal judge.

“Sgt. Manlunas also declared that Milagros was not arrested but came alone to the municipal building. On May 23rd, she gave her first statement before him, but a second statement on May 24th before Police Lt. Bancog, Alegria Station Commander, where she excluded her co-accused Teodoro Carcedo. The first statement was thrown away by administrative officer Debilleres without Sgt. Manlunas’ knowledge or consent after the second statement was taken.

“On May 25th, Milagros executed a third statement which was the same as her first statement given on May 23rd after telling Sgt. Manlunas that she gave the second statement only because she was afraid of Lt. Bancog. During that period, Milagros was not actually placed in jail but was allowed to stay in the police station office as she was sick and had to be treated by a doctor. Her first statement was not subscribed, while her second and third statements were subscribed before the municipal judge. Accused Teodoro Carcedo was implicated in the first and third statements together with Elisardo Carcedo, but in the second statement only Elisardo was implicated.

“Sgt. Manlunas further declared that Teodoro Carcedo was taken into custody for the first time on the 23rd of May, after he was picked up after going to barrio Bato, Samboan, Cebu and when he returned in the evening to his house. When brought to the Malabuyoc municipal building, Teodoro denied any participation in the crime after Milagros pointed to him, claiming that he could not be at the scene because he had an altercation with his brother Elisardo who chopped his fishing net. When Milagros insisted he was present at the killing, Teodoro said that she was saying nonsense.

“After Lt. Bancog took the second statement of Milagros, wherein Teodoro was excluded, the latter was released, but re-arrested on board a bus in Alegria, Cebu at 4:00 o’clock in the morning of the 27th of May after Milagros executed her third statement implicating him again.

“Finally, Sgt. Manlunas declared that a buri bag (Exhibit “J”) identified to be belonging to the victim and a T-shirt with red and white stripes and with cut-off sleeves (Exhibit “E”) which allegedly belong to Teodoro according to Milagros, were found also at the crime scene, together with a piece of broken glass apparently coming from the neck of a bottle cap (Exhibit “H-2”), which were turned over to the municipal judge. While no evidence of a bonfire or empty shells of seafood were found at the crime scene, however, Sgt. Manlunas went to a nearby area near a bridge beside the seashore pointed to by Milagros where he found bits of leftover food.

“Dr. Danilo R. Cabigon, Municipal Health Officer of Malabuyoc, Cebu, was called by the police while attending mass on May 22, 1977, to examine the dead body of Pedro Camahalan. He saw the body on a stretcher inside the chapel in a state of rigor mortis, and estimated that it had been dead less than 24 hours. He examined the wounds, removed the scalp and conducted an autopsy of the head. He prepared his post-mortem examination report on the same day (Exhibit “G” and “G-1”) wherein he listed and described his physical findings as follows:

‘PHYSICAL FINDINGS:

EXTREMITIES:

1. Abrasion, right wrist, dorsal portion, ½ inch long, obliquely directed.
2. Abrasion, right forearm, dorsal portion, ½ inch from wound number 1, measuring ¼ inch, directed obliquely.

ABDOMEN

1. Abrasion, ½ inch long, horizontal, located 1 inch below umbilicus.
2. Abrasion, three parallel abrasions, measuring 2.5 inches long, directed obliquely, located in the abdomen, 1 inch below the lowest tip of the sternum.

HEAD AND NECK:

1. Contusion, measuring 1 ½ in diameter with superficial linear abrasions measuring 1 inch long, directed horizontally, neck, left.
2. Contusion, measuring 1 ½ inch long with ½ inch abrasion, ½ inch below and parallel wound number 1 (head and neck).
3. Contusion measuring 1 inch long with ¾ inch abrasion below and parallel wound number 2 (head and neck).
4. Contusion all around left eye.
5. Wound, lacerated ¾ inch long lateral and a little below lateral tip, right eyebrow.
6. Wound, lacerated, involving the whole thickness of the skin, subcutaneous tissues and underlying muscles, measuring ½ inch, horizontal in direction located at the frontal region.
7. Wound, lacerated, gaping, involving the whole thickness of the skin, subcutaneous tissue and underlying muscles, 3 inches long, horizontally directed and located at the left parietal region.
8. Wound, lacerated, 3 inches long, gaping, horizontal in direction, located at the occipital region, 1 inch from the base of the skull.
9. Fracture, skull, occipital region with parts of brain tissue visible.
10. Wound, lacerated, gaping 3 inches long, slightly oblique in direction, occipital region ¼ inch above wound number 8.
11. Wound, lacerated, 2.5 inches long, gaping, horizontal, ½ inch above wound number 10.

These multiple scalp wounds have rough, irregular and ill-defined edges probably inflicted by a hard, solid, blunt instrument.'

"Dr. Cabigan declared in his report that the cause of death was 'Hemorrhage, shock, secondary to violent physical injuries (skull)', that Wounds Nos. 7, 8, 9, 10 and 11 were fatal wounds, that the wounds on the right forearm and wrist were defensive wounds, and that the victim died instantly. He saw the bottle (Exhibit "H") and the two pieces of stone (Exhibits "I" and "I-1") inside the chapel near the body during his examination, which could have caused the injuries found on the victim's body. After the autopsy, Dr. Cabigan saw the accused Milagros Camahalan who was brought to his clinic and because she was weak and pale, he gave her medical (sic) for headaches.

"Accused Milagros Camahalan, testifying in her own defense, declared as follows: The deceased victim, Pedro Camahalan, was her husband, who died on May 21, 1977 in sitio Tapi, barrio Montanesa, Malabuyoc, Cebu,

having been bludgeoned by Elisardo Carcedo.

“Milagros declared that in the early morning of May 20, 1977, she, her husband Pedro, their only child, and Mama Benita (Baylosis) were in their house in sitio Abungon, barrio Lomboc. After they ate lunch, Milagros went to buy fish in the sea off barrio Montanesa some two hours walking distance away. After buying some fish, she returned home and passed the house of Simplicio Daplas at around 4:00 o’clock p.m. to buy smoked tuna fish. Before reaching Daplas’ house, she met Elisardo Carcedo who is her second-degree nephew.

“Elisardo greeted her and commented that she had been back from the city, to which she replied that it was just in time for the fiesta in barrio Lomboc. He asked her about her husband and if he had the same traits still, which Milagros knew referred to Pedro’s being very possessive and being angry at any person of either sex who visits her in her house. He added that if he had been living long near her place, he would have killed Pedro long ago, and that he had killed several persons in Negros already. She told him not to meddle with their way of living and that what he said is against the laws of God and man. Elisardo did not reply anymore and Milagros proceeded on her way to Daplas’ house. After buying smoked fish from Daplas, she went home, arriving there at around 7:00 o’clock p.m. Pedro was in the house and told her that he was happy she was able to buy fish. They ate supper and retired for the night.

“The next day, May 21, 1977, Milagros, Pedro, their child and Mama Benita took their breakfast and lunch home. After lunch, Pedro told Milagros to prepare some raw fish salad or ‘kinilaw’ which he would like to eat at the seashore. Milagros prepared the fish salad and then proceeded with Pedro for barrio Montanesa, reaching the place at around 6:00 p.m. They met Elisardo Carcedo who invited them to go to the seashore as his brother had just arrived from fishing. Milagros and Pedro accepted the invitation and the three proceeded to the lower vicinity of the bridge near the seashore.

“Elisardo made a bonfire while Milagros and Pedro seated themselves. Elisardo’s brothers, Doro and Rudy, joined them, together with another man. These persons were catching shrimps with nets at the river mouth. Elisardo broiled shrimps on the embers and the group ate the broiled shrimps with corn grits which Milagros had brought along. Elisardo asked her if she had any money as he needed P10.00 to buy Anejo rum. Milagros gave him the money and he bought the rum, which was drank by him, Pedro, Rudy and Doro. The unidentified man did not drink but just stayed nearby.

“After a while, Elisardo walked some distance away and was followed by Teodoro. They talked with each other and then Elisardo returned to where Milagros and Pedro were seated. He smoked a cigarette and later invited the couple to barrio Tapi to buy smoked squid. They agreed and they walked with him about a kilometer away. They passed the store of Enting Lim at around 8:30 o’clock p.m. Teodoro was not with them.

“At barrio Tapi, they sat and Elisardo got one empty family-size Tru-Orange bottle to buy tuba. It was around 10:00 o’clock p.m. already by then. Milagros and Pedro sat facing the sea waiting for the arrival of the fishermen who were fishing in the sea with Petromax lights. Milagros was seated at the left of Pedro, while Elisardo was seated a little to their front and about armslength to her side.

“Suddenly, Milagros heard the sound of an impact. When she turned to look, she saw Elisardo striking Pedro with a bottle which looked like Exhibit “H”. She approached Elisardo, telling him, ‘Do not do that Ely, because my husband had not committed any offense.’ Elisardo brushed her aside, telling her not to meddle so that she will not be included. Pedro also said, ‘Don’t do that, Ely, are you going to kill me?’ Pedro had fallen on his back and Elisardo choked him. Teodoro suddenly appeared from behind a big tree and helped choked Pedro who was resisting Elisardo.

“Afraid of Elisardo’s threats, Milagros stayed away took the road towards her home. Elisardo caught up with her, panting, about a kilometer on the way. He told her to go straight home and not to report to the authorities as he will also strike her. It was almost dawn already and Milagros left Elisardo standing there. She arrived home at around 8:00 o’clock a.m. already of May 22nd. Mama Benita asked her where Pedro was and she

replied that he might be making a surveillance of her. Afterwards, she lay down to rest.

“In the afternoon of that day, May 22nd, some small children came and informed Milagros and Mama Benita that the dead body of Pedro had been brought to Malabuyoc, Cebu. Benita told Milagros to go to Malabuyoc immediately and she left at around 5:00 o’clock p.m. She went to Alegria, Cebu, to get a bus for Malabuyoc, but failing to get one, she walked to Malabuyoc, arriving there at almost curfew time. Many policemen were there at the municipal building and investigated her one after another but not in writing. She was detained up to May 31, 1977.

“On May 23, 1977, Milagros’ statement was taken in writing, and another one was also taken on May 25, 1977 (Exhibit “D”). On May 26, 1977, she was again investigated but no written statement was taken from her. Milagros signed the statement (Exhibit “D”) without reading it and neither was it read to her. She signed and subscribed the same before a judge because the police said that if he (sic) signs it, they can help her and she will stay in jail only for one night, and if not, they will either hang her or burn her. She was also not feeling well when she signed the statement. While admitting that there were portions in said statement which were true and some which were not true, Milagros denied that she had agreed with Elisardo to kill her husband, that she was present when Pedro was pounded with stones and his wallet taken, that she was Elisardo’s paramour and had slept with him after the killing, and that she had given P12.00 to Elisardo after the killing of Pedro.

“Milagros declared further that it was not true she had passed by Simplicio Daplas’ house in the morning of May 20th, and that she was looking for Elisardo as she wanted to hire him to kill her husband who was abusing her and even tried to push Benita. She claimed that Simplicio bore a grudge against her ever since harvest time last year when Simplicio and his wife stayed with her in her house and she drove them out at night when Simplicio was drunk and mock a lady visitor.

“She likewise declared that she left when Elisardo and Teodoro were choking Pedro as she was intending to go to town to ask for help but Elisardo overtook her on the way and threatened her. However, she admitted that, while there were several houses near the scene of the incident, she did not go to any of them to ask for help. She also admitted that even though she knew Elisardo to be a bad character with a police record in Malabuyoc and had even previously quarreled and boxed her husband, she did not dissuade him from going to the beach that fateful night with Elisardo. Furthermore, she admitted that the wallet (Exhibit “K”) and the buri hat (Exhibit “J”) belonged to Pedro. Finally, she declared that it took her almost seven (7) hours to leave the beach where Pedro was killed and reached her home because she walked slowly.

“Police Sgt. Nicolas Echica, of the Alegria, Cebu, Police Station, was presented by accused Milagros Camahalan to declare that on May 23, 1977, he went at around noontime to the municipal building of Malabuyoc, Cebu, because he heard that the husband of Milagros was killed in Dapit, Alegria, Cebu, but was later informed that it had happened in Sinangkang, Malabuyoc, Cebu. He saw Milagros being investigated in the office of the Chief of Police. He talked to her and she told him that she was confused and hungry. He asked her why she had not eaten and she replied that she had no appetite.

“Sgt. Echica requested the guard to allow Milagros to eat outside and he brought her to the market where she ate a little. He talked with her and told her to tell the truth and she said that it was Ely and Doro who had killed her husband. However, she did not relate about the manner she was investigated. Afterwards, Sgt. Echica returned her to the municipal building and he went home at around 12:30 o’clock in the afternoon to Alegria, Cebu.” (Decision, Criminal Case No. CCC-xiv-1651-CEBU, Rollo, pp. 9-24).

After trial on the merits, the trial court, convinced that Milagros Camahalan and Teodoro Carcedo are liable as co-principals in the killing of Pedro Camahalan, rendered a decision on January 12, 1978, the dispositive portion of which reads as follows:

“WHEREFORE, the Court finds the accused Milagros Camahalan y Baylosis and Teodoro Carcedo y Carredo, after trial on the merits, GUILTY beyond reasonable doubt of the crime of Parricide and Murder, qualified by

treachery, respectively, as defined and penalized under Articles 246 and 248 of the Revised Penal Code, as co-principals by inducement and direct participation, respectively, and there being no other aggravating or mitigating circumstance present or proven, hereby sentences each of them to suffer the penalty of RECLUSION PERPETUA, or life imprisonment, with the accessory penalties imposed by law, to indemnify jointly and severally, the heirs of the deceased Pedro Camahalan in the amount of P12,000.00, plus P8,000.00 in moral and exemplary damages, and to pay the costs of this action proportionately.

“Both accused shall be credited with the period they had undergone preventive imprisonment which shall commence from May 22, 1977 in the case of Milagros Camahalan and May 25, 1977 in the case of Teodoro Carcedo.” (Rollo, p. 42).

On January 13, 1978, accused-appellant Teodoro Carcedo, thru his counsel de oficio, filed his notice of appeal from the said judgment, while accused-appellant Milagros Camahalan, for and in her own behalf as detention prisoner personally and without assistance of any counsel, filed her notice of appeal on January 26, 1978.

In her letter dated February 8, 1980 (Rollo, p. 116), accused-appellant Milagros Camahalan withdrew her appeal in this case which was granted by this Court in its resolution dated February 25, 1980 (Rollo, p. 122).

Appellant Teodoro Carcedo raised the following assignments of errors:

“THE TRIAL COURT ERRED:

I

IN CURTAILING OR DENYING APPELLANT’S CONSTITUTIONAL AND LEGAL RIGHTS TO CONFRONT AND TO CROSS-EXAMINE A WITNESS AGAINST HIMSELF NAMELY, ACCUSED MILAGROS CAMAHALAN WHO, IN THE COURSE OF HER OWN DEFENSE, TESTIFIED AND GAVE INCRIMINATING EVIDENCE AGAINST HIM WHICH WAS MADE THE PRIMORDIAL BASIS OF HIS CONVICTION.

II

IN APPRECIATING AS EVIDENCE THE ALLEGED THIRD CONFESSORIAL STATEMENT (EXH. “D”) OF ACCUSED MILAGROS CAMAHALAN WHEN IT HAD FAILED TO RULE A PRIORI ON APPELLANT’S OBJECTIONS TO ITS ADMISSIBILITY UPON GROUNDS (1) IT VIOLATED HIS LEGAL AND CONSTITUTIONAL RIGHTS TO CONFRONT OR CROSS-EXAMINE HER THEREON AND (2) IT PALPABLY VIOLATED THE ‘RES INTER ALIOS ACTA’ RULE WHEN THE ALLEGED CONSPIRACY ATTRIBUTED TO ACCUSED HAD NOT YET BEEN SHOWN BY EVIDENCE ALIUNDE.

III

THAT EVEN GRANTING, ARGUENDO, THE TESTIMONY OF ACCUSED MILAGROS CAMAHALAN AND HER EXTRA-JUDICIAL CONFESSION (EXH. “D”) WERE BOTH TO BE APPRECIATED IN EVIDENCE AGAINST APPELLANT, YET THE SAME HAD SUFFERED FATAL INFIRMITIES, WERE FULL OF IMPROBABILITIES AND HOPELESS CONTRADICTIONS AS TO BE UNWORTHY OF BEING GIVEN CREDENCE OR WEIGHT.

IV

IN NOT ACQUITTING APPELLANT FOR THE PAUCITY OF TESTIMONIAL, DOCUMENTARY OR REAL EVIDENCE ADDUCED AGAINST HIM AND WHICH WERE INSUFFICIENT IN LAW AND JURISPRUDENCE TO OVERCOME HIS STRONG CONSTITUTIONAL PRESUMPTION OF

INNOCENCE.”

The main thrust of this appeal is that appellant was not afforded the right to confront Milagros Camahalan whose testimony implicated him in this case and was the primordial basis of his conviction.

The records show, however, that counsel de oficio for appellant Teodoro Carcedo had all the opportunity during the trial to cross-examine Milagros Camahalan but did not. He manifested instead that he would impugn the damaging declarations of co-accused Milagros Camahalan through the testimony of his client and his corroborating witnesses, when the time comes for the presentation of appellant’s defense. (Appellee’s Brief, pp. 20-21; Rollo, p. 127)

It is, therefore, readily evident that appellant thru counsel waived his right of confrontation. The opportunity of cross-examination having been secured, the function and test of confrontation has also been accomplished (U.S. v. Anastacio, 6 Phil. 413 [1906]).

No less important is the fact that the trial court did not entirely rely on the third extrajudicial confession (Exhibit “D”) of Milagros Camahalan as the sole evidence to prove conspiracy of appellant with his co-accused in the killing of Pedro Camahalan. The prosecution adduced credible evidence consisting of the things, acts and declarations testified to and/or presented in court by its witnesses with respect to the circumstances of previous time and place which were confirmed substantially by Milagros Camahalan when she testified as defense witness in her behalf. Thus, the trial court took into consideration, separately from said Exhibit “D”, the testimonies of Simplicio Daplas, Alma Licaros, Benita Baylosis, Sgt. Manlunas of Malabuyoc Police Force and Dr. Danilo R. Cabigon, Municipal Health Officer of Malabuyoc, Cebu.

Prosecution witness Simplicio Daplas testified that Milagros was at the vicinity of his house at barrio Montanesa looking for Elisardo Carcedo at 9:00 o’clock in the morning of May 20, 1977. He pointed to her the place where Elisardo resided, and she proceeded to the place pointed to. Prosecution witness Alma Licaros testified that she saw Milagros Camahalan, Pedro Camahalan and Elisardo Carcedo together at the store of Inting Lim in barrio Montanesa at around 10:00 o’clock in the evening of May 21, 1977, which is 50 to 60 meters away from the beach where the dead body of Pedro Camahalan was later found. Benita Baylosis, adopted mother of Milagros Camahalan, declared that Milagros went with her husband at 4:00 o’clock in the afternoon of May 21, 1977, to go fishing, but she returned alone the next day at around noontime, telling Benita that Pedro had gone to Santander, Cebu, to borrow money when the truth of the matter was that Pedro had already been assaulted and killed the night before. Sgt. Manlunas testified as to his official ocular inspection of the dead body and the things he found at the scene of the crime, consisting of buri bag, red T-shirt, bloody stones, empty bottle and parts thereof, and black plastic cap. He saw several injuries on the top and back of the head, nape and on the throat of the deceased victim. He also saw streaks of blood from the body at the seashore, and bits of left-over food on the beach near the bridge. From the post-mortem examination report of Dr. Danilo R. Cabigon, Municipal Health Officer of Malabuyoc, Cebu, on his autopsy of the cadaver of the deceased Pedro Camahalan as well as his testimony in court on said report and his autopsy, it was shown that the deceased victim sustained around fifteen (15) wounds or injuries all over his body, especially on his head and neck, five of which were fatal ones, and the cause of the victim’s death was “hemorrhage, shock, secondary to violent physical injuries (skull)”, thus showing that said injuries were inflicted by more than one person or assailant.

All the foregoing evidence, testimonial and real as well as the finding of Sgt. Manlunas from his inspection of the scene of the crime and the nature and seriousness of the victim’s wounds corroborate the statements of Milagros Camahalan in the questioned extrajudicial confession.

More than that, the chain of circumstances found by the trial court unerringly points to the complicity between the

appellant and his co-accused in the commission of the offense. A careful review of the records show that all three accused were together and acted in concert in the execution of their criminal design. They were animated by the same purpose, that of bringing about the death of the victim and the evidence show that by their very acts during and after the commission of the crime, they were acting in concert.

Thus, among other things, in her testimony in court, Milagros Camahalan narrated certain incidents and events before and during the existence of the criminal conspiracy, which are the basis of the trial court's findings that she lured her husband to the beach in barrio Montanesa in the evening of May 22, 1977, that in the execution thereof, appellant Teodoro Carcedo, in cooperation with his brother Elisardo Carcedo, choked and stoned the victim Pedro Camahalan to death, while she stood by watching them and thereafter, she and Elisardo Carcedo went to the latter's house where they slept together for the night while Teodoro Carcedo went separately on his way home. While a testimony coming from the mouth of a co-conspirator must be accepted with caution, the court is justified in giving credit to the same if no part thereof has been shown to be false (*People v. Tiongson*, 6 SCRA 391[1971]). In fact, the very death weapons found at the crime scene consisting of empty Tru-Orange bottle, two pieces of bloodstained stones, a broken bottle with a black plastic cap, actual use of which was not only admitted by accused Milagros but can be deduced from the nature of the injuries inflicted on the victim, confirmed the conspiracy heretofore shown.

In any event, as co-conspirator, the accused is equally responsible for the acts of his conspirators (*People v. Manlolo and Garcia*, G.R. No. L-40778, January 28, 1989; *People v. Jusep*, 157 SCRA 248 [1987]; *People v. Tamba*, 147 SCRA 427 [1987]).

On the other hand, the appellant's defense is alibi; however, later on he admitted that he was at the crime scene but alleges that he did not do anything there which had any relation with the crime (*Rollo*, p. 30). According to Teodoro Carcedo, on May 21, 1977, at around past 6:00 o'clock in the evening, he and his cousin Alfredo went to the seashore of Montanesa to catch fish to provide viands for their supper that night. While they were fishing, Elisardo called the appellant and asked the latter if they had already a big catch of shrimps so that they can broil some. The appellant replied that they had a few and told Elisardo to get the shrimps from the container. After Elisardo got the shrimps for broiling, appellant and Alfredo continued fishing and did not join Elisardo's group. About 8:30 o'clock that same night, appellant and Alfredo stopped fishing as they had then caught a variety of fish and shrimps and both went back home together to Servanda Carcedo's house. They arrived in said place at around 9:30 P.M. and their catch was immediately cooked. Servanda and her children ate their late supper. Afterwards, they drank some tuba and later on went to sleep together in the same house and never went out of the house until the following morning (*Appellant's Brief*, pp. 10-12).

The trial court found Teodoro's defense of alibi untenable besides being weak and apparently bearing earmarks of fabrication (*Rollo*, p. 34).

It is settled rule that alibi is a weak defense for it is easy of fabrication (*People v. Ragas*, 44 SCRA 152 [1972]; *People v. Mori*, 55 SCRA 382 [1974]; *People v. Dereje*, 56 SCRA 554 [1974]; *People v. Zapatero*, 58 SCRA 450 [1974]; *People v. Perante, Jr.*, 143 SCRA 56 [1986]; *People v. Coronado*, 145 SCRA 250 [1986]). For the defense of alibi to prosper, it is not enough to prove that the accused was somewhere when the crime was committed but that he must likewise demonstrate that it was physically impossible for him to have been at the scene of the crime (*People v. Benaraba*, 129 SCRA 266 [1984]; *People v. Esmael*, 37 SCRA 601 [1971]; *People v. Diaz*, 55 SCRA 178 [1974]; *People v. Turalba*, 55 SCRA 697 [1974]; *People v. Baylon*, 57 SCRA 114 [1974]; *People v. Cortez*, 57 SCRA 308 [1974]; and *People v. Coronado*, *supra*; *People v. Pineda*, 157 SCRA 71 [1988]; *People v. Masangkay*, 157 SCRA 320 [1988]; *People v. Santillan*, 157 SCRA 534 [1988]; *People v. Escabarte*, 158 SCRA 602 [1988]; *People v. Aninon*, 158 SCRA 701 [1988]).

In the instant case, taking into consideration that the appellant was then fishing at the seashore of barrio Montanesa which is only a hailing distance from the scene of the crime, the possibility of his being physically present at the latter site cannot be seriously doubted. In addition, he admitted that the other group arrived while he and Alfredo Carcedo were fishing and roasting shrimps and he even gave some to the deceased. In the process, he corroborated and supported Milagros' testimony with his own (Rollo, p. 38).

Finally, the record shows that Teodoro attempted twice to flee from the authorities, a fact indicative of guilt.

Undoubtedly, this case furnishes another occasion to reiterate the settled doctrine that the appellate courts will not disturb the factual findings of the trial court especially as to credibility of witnesses; that conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying (*People v. Adones*, 144 SCRA 364 [1986]; *People v. Patog*, 144 SCRA 429 [1986]; *People v. Cruz, Sr.*, 151 SCRA 609 [1987]; *People v. Veloso*, 148 SCRA 60 [1987]).

After a careful review of the records, no cogent reason could be found to disturb the findings and conclusions of the trial court.

WHEREFORE, the decision appealed from is Affirmed with the modification that the indemnity is raised to P50,000.00.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Feliciano, and Davide, Jr., JJ., concur.

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